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Reporter Murrey Marder on Access to 'Secret' Information

Following is the text of an affidavit submitted to Judge Gesell by Murrey Marder, Washington Post staff writer.

1. I am a reporter employed by The Washington Post and I make this affidavit in opposition to the plaintiff's motion for a preliminary injunction.

2. Intermittently since 1948, and constantly since 1957, I have been regularly engaged as part of my duties covering the State Department and other U.S. and foreign offices around the world.

3. No competent reporting on diplomatic, military or related affairs is possible without some form of officially-sanctioned—but rarely officially admitted—access to what is labeled "confidential," "secret" or "top secret" information, almost literally on a day-to-day basis.

4. The United States Government, as every other government, picks and chooses the classified information it passes on to the press, out of public sight, for its own purposes. These purposes can be to advance the government's international interests; to serve its domestic interests, governmentally or politically; to transmit information to other nations, or to serve other objectives.

5. The semi-covert disclosure of classified information is inherently weighted in favor of officials who control the information. The "volunteer leaking" is selective: often a portion of a classified cable is leaked, but not key qualifications; or a whole cable is leaked but not previous or subsequent cables changing or revoking the directions given in the "volunteered leak."

6. It is a prime function of the press in a non-totalitarian society to cross-check and try to balance this volunteered classified informa-

tion with other classified information not volunteered by the government. This is the process through which the widest possible spectrum of information is brought into the market place of public knowledge to compete in the struggle for truth.

7. Attached as Exhibit A is a study I wrote which was printed in The Washington Post on June 27, 1965, concerning the highly controversial American intervention in the Dominican Republic.

8. This account was based in considerable part on government cables which then were highly classified and still, as far as I know, remain classified. Many of these cables were made available to me by the Johnson Administration through the officially unadmitted, but officially sanctioned, process described in Paragraphs 3 through 6. Cable information that was volunteered was designed to sustain the Government's public assertion that the purpose of the U. S. military intervention in the Dominican Republic was to "save American lives." Cable information that was not volunteered showed that this was not in fact the actual initial objective.

9. The volunteered cable information in this case, as the published story shows, contained exact transmission times because the Administration wanted to substantiate through me its public version that the President had acted swiftly because "American lives were in danger."

10. But as the account shows, I was able to ascertain from other sources that prior cable traffic (also classified) between Washington and Santo Domingo centered on landing U. S. troops for a different priority purpose: to respond to the Embassy's fear of "a

communist takeover."

11. As the account relates, the U. S. Ambassador was first urged by Washington to "assist in establishing" a military junta; the junta then submitted a request in writing for U. S. military support. But the administration was unwilling to send troops for such an acknowledged interventionist purpose. The Ambassador went back to the junta leaders to get them to modify the purpose of the request for U. S. aid to state that "American lives are in danger," requiring "temporary intervention and assistance in restoring order in this country."

12. The illustration cited is only one form of the Government-press relationship. Throughout my experience as a diplomatic reporter I have been dealing with information that the United States or other governments have classified on security grounds. Governments want to be free to state certain information on the public record, and to amend, amplify, even contradict, what they have said publicly. They depend on the press in part to convey these subtleties not only to the public but to other nations, disseminating information which they themselves have stamped with a security label.

But a free press, if it is to remain free, cannot be bound by what the government disseminates in either classified or non-classified information; it must be free to test the validity of both by exercising its own resources to obtain contradictory versions of both types of information.

13. Turning to the article by me published in the June 19, 1971, edition of The Washington Post entitled "Viet Study Says Bombing Lull Pressure Move," the overwhelming proportion of the information contained in the materials on which this article was based was previously known to me

through the processes described above. What these materials have added to my knowledge, and to what I have previously reported in The Washington Post as fact or analysis during the years covered in these materials, is significant corroborating detail, plus some new facts, but even these new facts were in conformity with my prior knowledge of the substance of the U. S. policy during this period.

14. The complex relationship between press and government described in this affidavit, in which the press is the recipient of classified information, the searcher for contradictory classified information, and the distributor of both, is not familiar to the public at large; even specialists in foreign affairs who enter government can find it puzzling to practice.

15. As an illustration, when McGeorge Bundy left Harvard to take office in 1961 as the President's national security adviser at the start of the Kennedy Administration, he expressed to me his puzzlement about how he could talk at all to any diplomatic reporter such as me, even though he had known me before. His problem, he said, sitting in his White House office with his desk covered with documents, was that every paper on his desk was classified "confidential," "secret," "top secret" or even higher.

I replied that first, he would find that most of the documents were grossly overclassified; that he probably would conclude by experience that at a maximum they contained only five per

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